

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

Claims 1, 2, 16, 19, 20, 31, 42, and 43 have been amended. Support for the amendments is provided for example in the original claims, specifically original claim 2. The amendments were not presented earlier due to the unforeseeability of the remarks presented in the Final Rejection.

Claims 1-9, 11-17, 19-32, 34-36, and 39-43 were rejected, under 35 USC § 102(e), as being anticipated by Yoshimura (US 6,754,494). Claims 10, 18, and 33 were rejected, under 35 USC § 103(a), as being unpatentable over Yoshimura in view of Johansson et al. (US 2002/0072370). To the extent these rejections may be deemed applicable to the amended claims, the Applicants respectfully traverse.

Claim 1 now defines a method for controlling a plurality of base stations receiving a data packet from a communication terminal during a soft handover procedure. According to this method, some or all of the base stations, other than a base station selected as a serving base station, are controlled so as not to forward their received data packet to a control unit. The claimed subject matter supports reducing the signaling communicated between the plurality of base stations and the control unit (see specification page 11, lines 18-22). (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

The Final Rejection acknowledges that Yoshimura does not disclose the above-mentioned subject matter of claim 1. The Final Rejection fails to counter Applicants' previous argument that Yoshimura does not disclose this subject matter (see Amendment dated December

10, 2008, pages 14-16) but instead proposes that this distinguishing feature was not expressly recited in claim 1 (see Final Rejection section 8, lines 3-5). Claim 1 has been clarified to expressly recite a base station that receives a data packet from a communication terminal and is controlled so as not to forward the received data packet to a control unit during a soft handover. Therefore, allowance of claim 1 is deemed to be warranted.

Moreover, the Final Rejection does not address Applicants' argument that Yoshimura fails to disclose the present claimed subject matter of controlling a base station not to forward a received data packet during a soft handover (see Amendment dated December 10, 2008, page 14, last paragraph). Instead, the Final Rejection proposes (see Final Rejection section 8, second paragraph) that this subject matter is contrary to Applicants' previous argument that Yoshimura does not disclose a base station that continues to receive data packets from a mobile terminal (see Amendment dated December 10, 2008, page 15, first sentence of third paragraph). However, the Applicants submit that there is nothing contrary about identifying the claimed subject matter and stating what Yoshimura fails to disclose. And the Final Rejection fails to identify any specific remark that could be deemed contrary within Applicants' previous remarks.

Yoshimura discloses that both connected and disconnected (i.e., deleted) base stations convey control information, such as path loss and SIR data, to a base station controller so that the controller may: (1) determine whether to add a disconnected base station to the soft handover operation, (2) disconnect a connected base station from the handover operation, and (3) select a handover candidate base station using the conveyed information (see Yoshimura col. 2, lines 24-41). Thus, even assuming, *arguendo*, that Yoshimura's control information could be deemed to be similar to a data packet, which a skilled artisan recognizes as payload data rather than control data, Yoshimura does not disclose controlling a base station, which has received the control

information, so as to not forward the control information to a control station. As a result, even if Yoshimura's control data were considered similar to a data packet, Yoshimura's specification could not reasonably be construed as disclosing the present claimed subject matter of a base station that receives a data packet from a communication terminal and is controlled so as not to forward the received data packet to a control unit during a soft handover. This is because Yoshimura discloses that the base stations always communicate the control information without regard to their connection status.

The Final Rejection acknowledges that Yoshimura does not disclose base stations, which are disconnected from a soft handover operation, that continue to receive payload data from a mobile terminal, in that the Final Rejection has failed to rebut Applicants' previous argument to this effect (see Amendment dated December 10, 2008, page 15, first sentence of third paragraph). Thus, it necessarily follows that Yoshimura cannot disclose controlling a base station so as to not forward such payload data.

For the reasons discussed above, the Applicants submit that Yoshimura does not disclose controlling a base station so as to not forward received control information and cannot disclose controlling a base station to not forward payload data. Thus, Yoshimura does not disclose the Applicants' claimed subject matter of controlling a base station to not forward a data packet, regardless of whether the Final Rejection correctly construes the data packet to be payload data or incorrectly construes it to be control information.

Accordingly, the Applicants submit that Yoshimura does not anticipate the subject matter now defined by claim 1. Independent claim 19 similarly recites the above-mentioned subject matter distinguishing claim 1 from Yoshimura. Therefore, the rejections applied to claims 10,

18, and 33 are deemed to be obviated, and allowance of claims 1 and 19 and all claims dependent therefrom is considered to be warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

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